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COMMISSION ON HUMAN RIGHTS

Forty-sixth session

SUMMARY RECORD OF THE 12th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 6 February 1990, at 3 p.m.

Chairman: Mrs. QUISUMBING (Philippines)

later: Mrs. REGAZZOLI (Argentina)

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Agenda item 16:

(a) Study in collaboration with the Sub-Commission on Prevention of Discrimination and Protection of Minorities of ways and means of ensuring the implementation of United Nations resolutions bearing on apartheid, racism and racial discrimination

(b) Implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination

The meeting was called to order at 3.10 p.m.

STATEMENT BY HIS EXCELLENCY THE MINISTER FOR FOREIGN AFFAIRS OF AUSTRIA

1. Mr. MOCK (Minister for Foreign Affairs of Austria) expressed satisfaction that a new chapter was about to open in international co-operation for the protection and promotion of human rights. He quoted the new President of Czechoslovakia, Mr. Vaclav Havel: "From the moment that man made himself the supreme object and purpose of the world and the measure of all things, the world began to lose the human dimension." It was essential to guarantee the human rights and fundamental freedoms of every individual so as to preserve that human dimension.

2. The Commission had already made considerable progress in that direction, on the basis of the Universal Declaration of Human Rights, through the impressive international machinery for the application of human rights that had been put into place (including in particular the system of special rapporteurs of the Commission, under which his compatriot, Mr. Ermacora, had served for many years) and by paying ever greater attention to international assistance in that area, with the Centre for Human Rights as the focal point.

3. If still further progress was to be made, the following factors must be taken into account: the now virtually universal recognition of the principle that protection and promotion of human rights were obligations under international law and could not be regarded as interference in internal affairs; the current process of democratization in many parts of the world, especially Central and Eastern Europe; the growing number of institutions, at the global and regional levels, using effective procedures for the protection of human rights; and, finally, the growing recognition of the positive effects of constructive international co-operation in the field of human rights.

4. Turning to the status of human rights at the world level, he began with Europe. The changes witnessed in several European countries with which Austria shared a long history could be considered as a victory for the ideas of freedom and human dignity. However, that victory was only the beginning of a comprehensive process of democratization and full realization of individual freedoms. At the conference establishing the new Commission of independent experts of the Council of Europe ("Democracy through Law"), chaired by an eminent Italian lawyer, Professor La Pergola, he himself had pointed out the following necessary conditions for the process of democratization: the rights of the individual must be guaranteed by an independent and impartial judiciary; legislative processes had to respect individual freedoms, not only by enshrining them in the Constitution, but also by guaranteeing their full realization through a constitutional court; and democratic rule had to respect the free contest of political ideas so as to permit a peaceful change of power. In addition, effective control by an international body was essential: at the European level, the European Convention on Human Rights provided a so-far unsurpassed framework, but continuing endeavours by all States parties to that instrument were needed to ensure the application of its standards and to enhance them. Austria was conscious of the fact that, as recently underlined by Amnesty International, efforts must also be aimed at preventing human rights violations before they occurred.

5. In Africa, the establishment of the African Commission on Human Rights highlighted the commitment of the States parties to the African Charter on Human and Peoples' Rights to effectively combating human rights violations. He welcomed the first free elections held in Namibia and hoped that they would lead to the establishment of a democratic Government abiding by the rule of law. The measures recently announced by the President of South Africa, including the release of Nelson Mandela, gave reason for hope that a truly democratic system, granting equal rights to all segments of the population, would soon be established through a genuine dialogue.

6. In Latin America there was a well-established regional human rights machinery. He was also encouraged by positive developments such as the recent presidential elections in Chile. Grave concerns, however, remained with regard to El Salvador and Guatemala, and Austria also hoped that the Commission would apply all the means at its disposal to ensure full respect for human rights in Cuba.

7. Reasons for concern also persisted in a number of Asian countries, particularly Afghanistan and Cambodia. Professor Ermacora had mentioned the use in Afghanistan of weapons of mass destruction which inflicted a heavy toll on the civilian population, the high number of political prisoners, arbitrary justice and ill-treatment of prisoners. In Cambodia, a solution to the conflict must be found with the least possible delay to avoid a repetition of the "killing fields"; Austria supported the efforts aimed at a decisive involvement of the United Nations in seeking a solution. Still with regard to Asia, Austria was deeply disappointed at the abrupt interruption of the process of democratization in China. Concerning Iran and Iraq, he welcomed the beginning of co-operation with the mechanisms of the Commission. He deplored the situation in the territories occupied by Israel; his country's concern on that score had been expressed by his delegation at some length before the Commission a few days before.

8. Generally speaking, enhanced protection of human rights required that the following principles should be borne in mind: the principle of non-discrimination; the principle of the indivisibility of all human rights; the virtue of tolerance, particularly with regard to religion and belief; control of State power, particularly regarding the administration of justice; and protection of particularly vulnerable groups, such as children, ethnic, linguistic and religious minorities, refugees and migrants.

9. Addressing himself to the work that lay ahead, he indicated the following priorities: ensuring world-wide acceptance of human rights standards, including their recognition by members of the Commission that were not yet States parties to the Covenants (in that context he welcomed the recent adoption of the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the Abolition of the Death Penalty); greater international attention to economic, social and cultural rights; strengthening of the international bodies created for monitoring the implementation of human rights standards (in that context he referred to the suggestion he had made at the last session of the General Assembly for a study of the possibility of transposing to the global scale the step-by-step mechanism introduced by the Vienna Follow-up Meeting to the Conference on Security and Co-operation in Europe; and, finally, a serious strengthening of

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the resources of the Centre for Human Rights, whose staff deserved commendation. In conclusion, he expressed his country's determination to continue its efforts for human rights at home, at the European level and within the United Nations system.

The meeting was suspended at 3.50 p.m. and resumed at 4.00 p.m.

STATEMENT BY HIS EXCELLENCY THE PRESIDENT OF THE REPUBLIC OF POLAND

10. General JARUZELSKI (Poland) said that human rights had for centuries evolved in the process of social development and that no country or society could boast a sinless past or hold a monopoly of their correct interpretation. Furthermore, the concept of human rights as inherent attributes of the individual and the community was and continued to be conditioned by local cultures, beliefs and traditions and by specific historical circumstances, with the result that noble ideals had very often been set aside.

11. The Polish people were Europeans, and Europe had given the world an immortal culture and a magnificent civilization. Yet it had also stained itself with religious intolerance, colonialism and the crime of genocide. The two most horrible wars in the history of the human race had been unleashed in the twentieth century on the European continent. They had cost a total of nearly 100 million human lives - including millions from outside Europe - for which Europe still owed a kind of "general confession" to the rest of the world. Empires perished and Powers vanished, but belief in the inalienability of fundamental human rights had remained more durable than forms of group life, which had changed with the pulse of history. Major credit should be accorded to the United Nations, and particularly to the Commission on Human Rights, for their perseverance in the search for a common denominator of universal values transcending differences between nations or social systems.

12. Poland was no late comer among the ranks of defenders of human rights. As early as the fifteenth century, it had adopted laws which had been epitomized in 1430 by the opening sentence from a famous document: "Neminem captivabimus nisi iure victum" (no one shall be imprisoned without having been tried in accordance with the law). Poles took pride in their country's long centuries of tolerance, far from the stakes of the Inquisition and from religious wars. However, that humanistic tradition had for a long time been disturbed by foreign partitions and laws imposed by aliens. As a nation, Poland had not had a long enough time to practise modern forms of democracy and genuine self-government. Yet, as in any school, algebra could not precede arithmetic. So, after recovering statehood following the two World Wars, Poland had experienced periods of regression in the observance of human rights, as had many other countries. The early 1950s had even seen unlawful measures of repression or outright crimes. The Polish people could not and did not want to expunge those pages from their history.

13. Nine years before, he had had to take dramatic decisions which had been harshly criticized, especially among the members of the Commission on Human Rights. No one who chose the lesser of two evils could hope for praise. Evil invariably remained evil to one or another group of people. However, what mattered on the scale of history was what in the final analysis resulted from actions taken in extremis. The Poland of today was sufficiently convincing evidence of the intentions, thinking and premises that had determined his

actions. Only in fairy-tales could the touch of a magic wand change everything: experience showed that no miraculous recipe could substitute for hard and long-lasting social processes.

14. Currently Poland had no reason to dodge the verdict of international public opinion with regard to the observance of human rights. Its efforts in the legal, political and social spheres were well known: Poland had been the first country in Central and Eastern Europe to form in the early 1980s the Tribunal of State, the Constitutional Tribunal, the Supreme Administrative Court and the Office of the Ombudsman with very wide prerogatives. In recent times, in the current atmosphere of dialogue and conciliation, Poland had been undergoing profound democratic changes and was opening up to Europe and the rest of the world. It was establishing the rule of law unlimited by any secondary premises.

15. Poland also participated in the efforts by the international community to codify fundamental humanitarian standards and in that respect had its national "speciality": the United Nations General Assembly had approved at its last session the Convention on the Rights of the Child, which the Commission had considered for 11 years after Poland had proposed the idea nearly a quarter of a century before. It was in fact a Pole, Janusz Korczak, who at the beginning of the century had put forward the principle that "the child is also a human being" and not merely the property of its parents. Poles were proud that the thoughts of that great humanist murdered in the gas chambers of Treblinka had been embodied in a binding international standard.

16. The Commission on Human Rights deserved credit for its recognition, in the memorable resolution of 7 February 1976, of the right to live in peace. To Poles particularly, that also meant the right to national security within stable and legally recognized State borders.

17. In recent years the concept of human rights had acquired a new dimension owing to the fact that scientific and technical advancement had not automatically brought to fruition all the hopes it had awakened. Present generations were faced with new threats unforeseen by their predecessors, whence the emergence of the right to use unpolluted natural resources, the right to clean water and breathable air, to quiet, to preservation of the ozone layer over the planet Earth and of the natural geographical environment and landscape, including the protection of disappearing species of plants and animals. They constituted what was called the "third generation of human rights", which should take into account that fact that man was a social being and that his needs were not fully satisfied by individual consumption.

18. It was becoming increasingly urgent, therefore, to harmonize individual and collective human rights and fully apply the rules of social justice which had been fostered by progressive ideas in many countries in the twentieth century. He was thinking not only of social justice according to the humanistically conceived socialist doctrine, which after all had been developed in Western Europe and had fascinated many generations; he could also invoke the encyclicals of Pope John Paul II, which contained an in-depth analysis of the social and economic problems of the times.

19. There were certain superior values that had guided mankind from the darkness of the Middle Ages to the modern conception of human rights, and that would never be a completed process. As fundamental standards became stronger,

the ambitions and needs of the peoples of the planet were growing. The challenge was great, and it must be met. As President of the Republic of Poland, he assured the Commission that his country would continue to march along the road of conciliation and wise co-operation between different social and political forces and would apply the standards and recommendations of the Commission on Human Rights.

VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF THE AD HOC WORKING GROUP OF EXPERTS (agenda item 5) (continued) (E/CN.4/1990/6 and 7)

THE ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE COLONIAL AND RACIST REGIME IN SOUTHERN AFRICA (agenda item 6) (continued) (E/CN.4/Sub.2/1989/9 and Corr.1 and Add.1)

IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID (agenda item 15) (continued) (E/CN.4/1990/32 and Add.1 to 6; E/CN.4/1990/34 and Add.1 and 2; E/CN.4/1989/31/Add.10; E/CN.4/1989/33 and E/CN.4/1990/35)

AGENDA ITEM 16:

(a) STUDY IN COLLABORATION WITH THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES OF WAYS AND MEANS OF ENSURING THE IMPLEMENTATION OF UNITED NATIONS RESOLUTIONS BEARING ON APARTHEID, RACISM AND RACIAL DISCRIMINATION

(b) IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (continued) (E/CN.4/1990/37, 38 and 50; E/CN.4/1990/NGO/7 and E/CN.4/Sub.2/1989/8 and Add.1)

20. Mr. VILLARROEL (Philippines) welcomed the announcement by the South African Government that it was lifting the 30-year-old ban on the African National Congress (ANC), that it would soon release Nelson Mandela unconditionally, and that it would repeal the emergency regulations curtailing freedom of the press. However, he doubted that those gestures would strike at the root of the problem and lead to the total eradication of institutionalized racism.

21. Regrettably, the interim report of the Ad Hoc Working Group of Experts on Southern Africa (E/CN.4/1990/7) confirmed the misgivings one might have concerning the South African Government's reforms. That peaceful demonstrations were allowed, that political prisoners were released, that the city of Johannesburg had opened its recreation areas to all and abandoned segregation on buses could not dissimulate the fact that persecution and repression continued.

22. Mr. Eide, Special Rapporteur, in his study of August 1989 on the progress achieved and obstacles encountered during the Decade to Combat Racism and Racial Discrimination, had recommended that comprehensive and mandatory sanctions against South Africa should be continued and intensified. The Philippine delegation supported that recommendation, for it was convinced that as long as the authorities of Pretoria clung to apartheid, the application of sanctions was the only way to bring them to the negotiating table. The view

had been expressed that the sanctions should be re-evaluated; his delegation did not agree and considered that, as the Commonwealth Committee of Foreign Ministers on Southern Africa had concluded at its latest conference, in August 1989, sanctions must be maintained and intensified until progress became irreversible.

23. As a founding member of the Special Committee against Apartheid, the Philippines had joined the struggle against that scourge from the very beginning. President Corazón Aquino, addressing the General Assembly in 1986, had referred to apartheid as the great moral issue confronting the United Nations. Recently, on 24 January 1990, the Philippines had presented its second report on the implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid before the Group of Three at its thirteenth session. At that session, his delegation had pointed out that the concept of racial superiority had never taken root in the Philippines or formed part of the national experience and psyche; it had made the same point in presenting its eighth, ninth and tenth reports to the Committee on the Elimination of Racial Discrimination in August 1989.

24. The developments in Namibia gave cause for optimism about the implementation of Security Council resolution 435 (1978), and the Philippines would cordially welcome Namibia to the family of nations.

25. Ms. KIRONGOZI (Observer for Zaire) thanked the Chairman-Rapporteur of the Ad Hoc Working Group of Experts on Southern Africa, Professor Balanda, for his presentation at the Commission's 10th meeting of the Working Group's detailed and thorough report (E/CN.4/1990/7). In that part of the world, it was well known that apartheid was the source of all the systematic and flagrant mass violations of human rights.

26. Her delegation fully supported all actions by the international community aimed at ending that inhuman system. The President of Zaire, Mr. Mobutu, had stated before the General Assembly of the United Nations: "Fruit falls from the tree when it is ripe, but the hurricane and tempest of history bring it down whether it is ripe or not". The tempest of freedom that was shaking the world would also bring apartheid down.

27. She welcomed certain recent changes in southern Africa. In Namibia, first of all, after the free elections, the country's accession to full independence in conformity with Security Council resolution 435 (1978) and the agreements concluded to that effect was impatiently awaited. In southern Africa, the recent measures announced by Mr. de Klerk on 2 February deserved attention but gave no cause for euphoria. Those measures must be followed by action with a view to rapidly clearing the way for negotiations between all the parties for the establishment of a democratic and multiracial system. The report issued as document E/CN.4/1990/7 showed that freedom was still far away for the black people of South Africa.

28. In the immediate future, therefore, the Commission should encourage and support the anti-apartheid campaigns of the humanitarian organizations, religious movements, trade unions and students' organizations. In that connection, her delegation wished to congratulate the Association France-Libertés, directed by Mrs. Mitterrand, for having brought black and white South Africans together at Dakar and Paris. Thus, for the first time,

Afrikaaners from various backgrounds (businessmen, teachers, parliamentary opposition leaders, journalists, etc.) had been able to discuss post-apartheid South African society with the ANC and the Mass Democratic Movement (MDM).

29. With regard to the Front-line States - of which it was one, given the length of its frontiers with Angola and Zambia - Zaire's contribution to the stability of that region was well known. President Mobutu had been mandated by the other African heads of State to pursue his mediation and conciliation efforts in Angola. Zaire was also combating apartheid through negotiation, since it believed that the struggle should not be exclusively an armed one. The African heads of State had approved the Zairian initiative of opening a dialogue with the authorities of South Africa in order that that country's black majority should be involved in the exercise of power as rapidly as possible.

30. Mr. MEZZALAMA (Italy) said that, 40 years after the Universal Declaration of Human Rights, not to recognize the equality and dignity of all citizens without exception but to impose de jure and de facto discrimination on them, despite all international, moral and religious standards and political and social developments in the rest of the world, meant consciously distancing oneself from the civil community, which was exactly what the apartheid régime was doing. Thus Italy's condemnation of that system remained firm and unconditional. Its position in all international forums had always been consistent and unchanging, in that it asked for a constructive dialogue to begin between all the components of South African society. In 1987 and 1988 it had voted in the Security Council in favour of the resolution on selective and mandatory sanctions against South Africa.

31. The systematic violence of apartheid had in fact affected everyone who had lived and continued to live under that régime, regardless of race, colour, sex, language, religion, opinion, nationality or social status; all South Africans shared the suffering thus created, and that very fact must give them the strength necessary to undertake phased but unconditional reform that would lead them towards a system where everyone's dignity and equal rights would be acknowledged. Some favourable signs were already visible. It could therefore he hoped that South Africa would at last set out on the long road back to the community of nations and, once there, help to eliminate tensions and restore peaceful and equitable relations between the countries of southern Africa.

32. In the United Nations, the situation in South Africa had been the subject of widely divergent interpetrations, which were now converging thanks to the positive development of the situation in Namibia and to the signs of hope from South Africa itself. At a special session in December 1989, the General Assembly had unanimously approved an important declaration representing the broadest consensus yet reached in the international sphere on the principal questions concerning South Africa. That valuable success must be consolidated and improved on, and the current session of the Commission provided the first opportunity to do so. Italy hoped that the consensus obtained would be conducive to the emergence of new features, in respect of form and of substance, in the various draft resolutions which the Commission would be considering, and that that would help to bring the members' positions closer together. His delegation would support such a development, in particular in the framework of European Community co-operation.

33. Italy also believed that encouragement should be given to the programmes of assistance to the anti-apartheid struggle as part of the activities of the Second Decade to Combat Racism and Racial Discrimination. Co-ordination of existing structures should increase their efficiency. A world campaign was necessary to combat racial discrimination, and Italy approved the work done in the area of sensitization on the one hand and prevention on the other.

34. At a time when East-West co-operation seemed to be beginning, and when controversy seemed to be giving place to a search for dialogue and consensus, all countries must grasp the opportunities that the situation offered. Under those circumstances, South Africa could not reject the path towards radical change which fear, prejudice and a selfish and limited view of the situation had so far prevented it from taking with courage, imagination and realism. Progress in the human rights situation in South Africa would mean a further success for the international community, achieved through the pressure, which could not be called interference in internal affairs, brought to bear by all possible mechanisms. The word "apartheid" would then be merely the historical designation of a hateful discrimination belonging to a vanished past.

35. Mr. WAREHAM (International Association against Torture) said that his Association represented the interests of 29.3 million people of African descent in the United States of America. For many years, its representatives had regularly been appearing before the Commission to denounce the human rights violations committed at the expense of millions of black people who were victims of racism and racial discrimination in the United States. Since the 1940s, the National Negro Congress had been declaring that all the provisions of the conventions on the rights of women and children and on genocide were being violated by the manner in which black people and poor whites were treated in that country. Other charges had followed, the most recent being that of Freedom Now - an organization for the defence of the rights of political prisoners - which had stated in 1989 that in January of that year the black community of Florida had had its fourth major rebellion in a decade, triggered by the murder of black residents by the police. Yet protests against human rights violations were invariably viewed by the FBI, in the twentieth century, as subversive and criminal!

36. Regarding the current situation, it was noteworthy that in August 1989, at the very moment when the United States representative had been admitting before the Sub-Commission on Prevention of Discrimination and Protection of Minorities that a few "minor" human rights violations persisted in the United States, a mob of racist whites had beaten to death a 16-year-old African-American in the middle of New York. In the week preceding the Commission's current session, in separate incidents, two unarmed Latin American youths had been killed by New York policemen. In 1989, 40 people, nearly all black or Latin American, had died while in the custody of the New York police.

37. But it should be added that other effects of racism and racial discrimination, although less spectacular, were often as deadly. For example, according to a study published in 1989, in the mid-1980s the per capita income of the black population had still been less than 60 per cent of that of whites; in the past decade, black family income had declined by twice the rate of that of white families and the proportion of incomes under $5,000 per family per year had increased from 8.9 per cent to 14 per cent among black people in 1986.

38. With regard to health, in 1985 the infant mortality rate, which had been been 9.3 per thousand for whites, had stood at 18.2 per thousand for blacks, reaching a peak of 23.7 per thousand in Michigan. In 1983, 27 per cent of blacks (compared with 13 per cent of whites) had had no source of health care except a hospital out-patient department or emergency room. The life expectancy of males was higher in Bangladesh than in Harlem, and that of whites now exceeded that of blacks by 6.2 years, compared with 5.6 a few years previously. The authors of the above-mentioned study concluded that the mortality rate was so high among the black population in Harlem, and probably in other black districts of large towns, that those zones should be given special consideration analogous to that given to natural-disaster areas.

39. Regarding education, in 1978 the proportion of adults who had not completed high school, has been 34 per cent for the country as a whole but 52 per cent for the black population; 3.6 per cent of Americans had attended school for less than five years, but among blacks the figure had been nearly three times as high. Finally, only 7.2 per cent of the black population held a university degree, compared with 15.7 per cent for the population as a whole. The gulf that existed between blacks and whites in the field of education had been pointed out in a study entitled "Blacks in American Society", whose author had concluded that the gap was continuing to widen since school drop-out rates for blacks were double those for whites.

40. Concerning housing, most black people were too poor to find satisfactory accommodation, and when they could afford it they were usually victims of segregation and discrimination. When certain leaders had attempted to break the segregated housing barriers in Chicago, whites had resorted to violence. Housing was also the area in which the law was most often violated with impunity. According to an October 1989 study, New York had 30,000 to 40,000 homeless, 75 per cent of whom were blacks and Latin Americans.

41. The effects of those social conditions were the most glaring in the system of justice. Black people accounted for half the prison population. They were more likely to be arrested and spent more time in prison, and the recidivism rate was 40 per cent higher among them than among whites. In 1978 the arrest rate had been 3.5 per cent among whites and nearly 10 per cent among blacks.

42. It should also be pointed out that there were political prisoners held in United States gaols for having participated in movements against racism, racial discrimination and colonialism. Many members of the Commission might be unaware that South Africa was not the only country with a preventive detention law; since 1984 the United States had had an equivalent law, the Bail Reform Act, which had ostensibly been enacted to combat organized crime and career criminals, but which had first been applied to a group of black political activists and, for four years, to Puerto Rican militants fighting for the independence of their country.

43. In view of the foregoing, the International Association against Torture urged the Commission to pay particular attention to the growing incidence of racism, discrimination and racial violence in the United States of America, and more generally to the plight of millions of black people in that country. The International Association against Torture requested the Commission to appoint a special rapporteur to investigate violations in the United States of

articles 2, 7, 22, 23, 25, 26 and 27 of the Universal Declaration of Human Rights. Very little had changed in that country since 1951 when William Patterson had addressed the United Nations to denounce, in the name of the Convention on the Prevention and Punishment of the Crime of Genocide, the abuses committed there.

44. Mr. DAHL (Sweden), speaking on behalf of the five Nordic countries, said that the human rights problem in South Africa could not be resolved until apartheid had been abolished. Despite the new dispensations, the reforms and the contacts currently taking place, that system was still in effect.

45. Beyond the numerous expressions and effects of apartheid, which had been exhaustively catalogued, three basic aspects illustrated why it stood out as the most important issue for the international community in its struggle against racism and racial discrimination. First, under apartheid, people were repressed not only as individuals, but also and more particularly as groups. Under the Population Registration Act certain human beings were brushed aside from birth because of their race; that was why apartheid went deeper than political repression. Secondly, apartheid denied the equal worth and dignity of the human being, a basic principle of the Charter of the United Nations, which all States Members of the United Nations had a duty to respect if they were not to violate international law. Finally apartheid, as the root cause of much of the turmoil, strife and suffering in southern Africa, was a threat to international peace and security, and it was therefore the duty of the States Members of the United Nations to help bring about its peaceful abolition.

46. Since the previous session of the Commission, peace and democracy had made progress in many parts of the world. The United Nations was playing a central role in the Namibian independence process, and attempts were being made to achieve peace in Angola and Mozambique. Political changes were taking place in the Republic of South Africa itself, and there was reason for hope that in time it would start dismantling apartheid. The Nordic countries welcomed in particular the steps announced by President de Klerk at the opening of Parliament, and they urged the South African Government to create a political climate conducive to negotiations which would transform South Africa into a non-racial, democratic country ready to take its rightful place in the community of nations. Genuine leaders of the oppressed majority were now available for the Government to negotiate with, but any procrastination would diminish the chances of peaceful change in South Africa.

47. The Nordic Governments reiterated their appeal to the South African Government to respond fully to the declaration which had been adopted unanimously at the special session of the General Assembly in December 1989 and which had been based to a large extent on the proposals of the Mass Democratic Movement and the African National Congress as reflected in the Harare Declaration. That unanimous proclamation should greatly help current efforts to create the necessary framework for a direct dialogue between the Government and the true representatives of the majority of the South African people. Only the South Africans themselves could decide how best to resolve their problems. But as long as apartheid existed, the international community would have an obligation to reject that affront to humanity and exert pressure on the Government of South Africa to eliminate it while peaceful change was still possible.

48. The Nordic Governments were convinced that sanctions had had a strong impact on South Africa and that the positive steps of recent months were due to the internal and external pressures exerted on the South African Government. It was all the more important at the current critical juncture to keep up the pressure until the South African Government had taken fundamental, irreversible and definitive steps to dismantle the apartheid system; only then could the lifting of sanctions be considered. Since virtually all the pillars of apartheid remained intact, that time had not yet come, and it was for the South African Government to prove that it meant what it had been saying. The international community was awaiting decisive action and concrete results.

49. The policies of the Nordic countries were guided by their joint Nordic Programme of Action against Apartheid, which provided for a general ban on trade and investments and for restrictions on economic and cultural links with South Africa. In addition, the Nordic countries extended substantial humanitarian assistance to the opponents and victims of apartheid, inside and outside South Africa, and gave high priority in their development assistance programmes to support the Front-line States and SADCC. That support was more vital than ever, and they urged other Governments not to turn away from southern Africa because their assistance was also needed elsewhere.

50. The people of Namibia were now in a position to determine their own future, and the Nordic countries hoped that the success of the elections and of the constitutional process in Namibia would demonstrate to South Africans that peaceful, negotiated and democratic change was possible.

51. Mr. LICHEM (Observer for Austria) said that the past few months had witnessed signs of a transformation of the system in South Africa which would have been considered by many as totally unrealistic one year before. The South African Government had acknowledged the need for internal change, as shown by the release of Mr. Sisulu and seven other political prisoners in autumn 1989 and the measures authorizing mass demonstrations. President de Klerk had further announced a commitment to repeal the Separate Amenities Act (segregation in recreational areas) and create new free settlement areas; he had put an end to the Beach Apartheid Act and decided to dismantle the National Security Management System. In addition, President de Klerk had promised on 2 February 1990 to free Nelson Mandela, to ease the ban on the ANC and PAC and lift the restrictions on UDF and other anti-apartheid organizations, to release political prisoners, to abolish censorship and partially lift the state of emergency, all of which testified to a new political will to abolish the rules that divided the South African population on racial lines. All those encouraging signs showed recognition that the system must change and that negotiations were the only means of bringing apartheid to a peaceful end and resolving South Africa's basic problems.

52. Austria had for many years been asking the South African Government to take such measures in order to create a climate conducive to negotiations with the legitimate leaders of the black majority, and it hoped that a political dialogue could not be opened without pre-conditions in order to abolish apartheid and create a new South Africa - a society which offered equal opportunities for all its inhabitants irrespective of their race.

53. The constitutional framework of that new South Africa must of course be determined by the South Africans themselves, but it was also essential for such negotiations to be in conformity with the Charter of the United Nations and the Universal Declaration of Human Rights. Only through the total eradication of apartheid would it be possible to ensure justice, peace and prosperity for all and put a final end to the domination of a minority which was imposing an intolerable situation on the majority.

54. Despite encouraging developments and the hope of a better future, it must be realized that black South Africans still suffered deprivation, humiliation and injustice as before, that schools and hospitals were still segregated and that the Group Areas Act was still in effect. A mere reform upholding the essence of racial segregation and discrimination in a more subtle way would be insufficient. The Group Areas Act and the Population Registration Act, the two legal pillars of the system, had to be completely abolished. The legal changes so far made did not truly strike at the root of the problem, yet that was the indispensable condition for eliminating the system; any attempt at mere adaptation was unacceptable.

55. At the present juncture the international community bore a particular responsibility, and it should use all peaceful means to promote negotiations. A relaxation of the international pressure on the South African Government could be considered only if there was irrefutable evidence of significant and irreversible change. The efforts of the international community, which had been largely instrumental in the recently announced measures, should continue to be well co-ordinated in order to achieve lasting results. The goal was a non-racial and democratic State which guaranteed justice, security and equal political rights to all its citizens in the spirit of the Universal Declaration.

56. Austria was deeply committed to the elimination of racism and racial discrimination; for that reason it appealed to all political forces in South Africa, but foremost to the South African Government, which bore the prime responsibility for the future of the country, to act vigorously and unambiguously towards instituting the long overdue national political dialogue.

57. Mr. STRUYE DE SWIELANDE (Belgium) noted that encouraging developments had taken place in southern Africa since the Commission's previous session. First, there had been the organization of free and fair elections in Namibia, as a prelude to independence, and the release of eight political prisoners, including Mr. Sisulu, and of a large number of persons detained under the state of emergency, then the announcement by President de Klerk that he intended to undertake reforms, and more recently the promise to release Nelson Mandela, the legalization of political parties, the ending of censorship and the suspension of capital punishment. All those measures were obviously significant in themselves, but they would be even more so if they were to lead to the establishment of a genuine national dialogue, which was the only means of achieving the total elimination of apartheid by peaceful means and of finding a solution to South Africa's other complex problems.

58. Belgium's policy towards South Africa was based on the total and unreserved condemnation of the odious system of apartheid, support for peaceful changes and solutions, recourse to selective means of pressure and persuasion - excluding mandatory global sanctions, from which the black

population would be the first to suffer - and an approach whereby policies would evolve as the situation developed. His delegation hoped that, following the General Assembly's adoption of a declaration on apartheid at its sixteenth special session in December 1989, the Commission would adopt its resolutions by consensus and its decisions would be such as to encourage the South African Government without necessarily excluding certain means of pressure.

His delegation had given close consideration to all the documents before the Commission under agenda items 5, 6, 15 and 16. In that connection, it regretted that the interim report of the Ad Hoc Working Group of Experts on southern Africa (E/CN.4/1990/7) merely contained a long list of violations committed in that region and did not take encouraging developments in the situation into account.

59. With regard to the report prepared by Mr. Khalifa (E/CN.4/Sub.2/1989/9 and Corr.1 and Add.1), his delegation must repeat that it rejected the legal basis of the report, since it had never accepted the principle of global and mandatory sanctions, especially as a number of companies were implicated without evidence. Rather than indiscriminately criticize foreign companies established in South Africa, the Belgium Government, together with its partners in the European Economic Community, had always preferred to foster respect for the "Code of Conduct" drawn up by the Twelve for Community-based companies that had subsidiaries in South Africa.

60. Regarding the International Convention on the Suppression and Punishment of the Crime of Apartheid, his delegation wished to repeat once more that Belgium had some very serious legal objections to that instrument which prevented it from acceding to it, although that position in no way diminished its condemnation of apartheid or its will to contribute to efforts to abolish that system through all possible means.

61. Finally, his delegation wished to congratulate Mr. Eide for his study on ways and means of ensuring the implementation of resolutions bearing on apartheid, racism and racial discrimination (E/CN.4/Sub.2/1989/8 and Add.1), which broadened the approach to the problem and situated it in each individual's daily life.

62. Mr. SENE (Senegal) said that, in approaching the debate on violations of human rights in southern Africa, his delegation fervently hoped that the dismantling of apartheid, a barbarous political system which raised racism to the level of an institution, would begin without delay. The tribute paid to Nelson Mandela throughout the world eloquently brought to the fore the courage and conviction of the man who symbolized the heroic struggle of the black majority against the flagrant violations of the most basic human rights perpetrated by the white minority in South Africa. That tribute should also include all the South Africans, white and coloured, Christian, Jewish, Hindu and Muslim, who through the power of mind and the strength of ideas for decades had been conducting a determined struggle against apartheid. Mention should also be made of the role played by Pan-Africanism and its principal architects in the struggle against racism and the oppression of black people throughout the world, and the influence wielded by an entire generation of African statesmen, making a very lengthy list, who had been among the founders

of the Organization of African Unity, by the three Nobel prizewinners, Albert Luthuli, Martin Luther King and Desmond Tutu and, finally, by all those throughout the world who had energetically promoted the struggle for the liberation of the African peoples from colonialism and racial discrimination.

63. Concerning South Africa, it should be remembered too that the struggle waged by Mahatma Gandhi, the advocate of non-violence and passive resistance, had deeply influenced the ANC's approach until the Sharpeville massacre on 21 March 1960. Finally, emphasis should be placed on the vigorous action of the Governments, intergovernmental and non-governmental organizations, and humanitarian agencies, in various regions of the world that had led the international community to condemn the apartheid system unanimously. Reforming or amending that system was not enough; it must be eliminated in all its forms. That was the only way to contribute to the emergence of a society of freedom and justice based on democratic principles, especially universal equal suffrage, in accordance with article 21 of the Universal Declaration of Human Rights.

64. At a time when the wind of freedom was blowing through the world, it was absurd, to say the least, for millions of persons who were the majority in their own country still to be enduring racial discrimination and disregard of their human dignity. In that connection, his delegation had read with great interest the report of the Ad Hoc Working Group of Experts (E/CN.4/1990/7), which contained an in-depth analysis of the violations of basic human rights in South Africa, especially the right to life by the application of capital punishment, and extensive information on how justice was administered, the violations of trade-union rights and the inhuman and degrading treatment of children and adolescents. His delegation reaffirmed its support for the ANC, the PAC, the anti-apartheid movements, the trade unionists, teachers, athletes, and journalists and everyone who was fighting for the restoration of freedom of the press and information in South Africa. It also welcomed the work done every day by artists committed to the struggle against apartheid, who were using their talents to promote the idea of the brotherhood of man in beauty and truth. Finally, it took the opportunity to express its solidarity with the Front-line States and the countries bordering on South Africa, which had often been the victims of acts of aggression, destabilization and terrorism perpetrated by the racist régime of Pretoria and which continued to suffer the devastating consequences, financial ones included, of apartheid.

65. Very early on his country had accorded hospitality to the offices of SWAPO and the ANC, granted refugee status to many Namibians and South Africans, prepared a training programme for Namibian and South African nationals and applied economic sanctions against apartheid at the national level. It had also engaged in action at the international levels; particular mention should be made of the memorable tour of southern Africa made in 1985 by President Abdou Diouf in his capacity as serving chairman of the OAU before the holding of the second Paris World Conference on Sanctions against Racist South Africa (June 1986) and the historic meeting in July 1987 at Dakar between delegations of liberal white South Africans and members of the ANC, which had opened the way for other contacts, the most recent of them in London and Paris in September and November 1989.

66. At the present juncture, despite all the new and positive measures announced by President de Klerk, sanctions should be maintained against the South African Government and it should be encouraged to continue working towards a dialogue with the representatives of the black majority in order to eliminate obstacles to the negotiations that would lead to a democratic, non-racial society where all citizens could live out their common destiny in harmony regardless of race, colour, sex or belief. To that end, the Commission might seek inspiration in the Declaration on Apartheid and its Destructive Consequences in Southern Africa, adopted by consensus by the General Assembly at its sixteenth special session in December 1989 (see A/S-16/AC.1/L.1).

67. The preamble to the Declaration referred to efforts in the United Nations to establish peace throughout the world by ending all conflicts through negotiations, and the need to bring an end to apartheid, characterized as a "crime against the conscience and the dignity of mankind", which violated the fundamental principles of human rights and must therefore be eliminated in order to establish peace and justice in southern Africa and so achieve the objectives that were imperative for the stability and development of Africa and of the world. The General Assembly also took note of the Declaration of the Ad Hoc Committee of the Organization of African Unity on Southern Africa, adopted at Harare on 21 August 1989 and endorsed by the Movement of Non-Aligned Countries at its Ninth Summit Conference held at Belgrade in September 1989. Finally, the Assembly pledged itself to the positions contained in the Declaration, convinced that their implementation would bring a speedy end to the apartheid system and herald the dawn of a new era of peace for the peoples of Africa.

68. In the operative portion of the Declaration, the General Assembly indicated that the implementation of the Declaration required first of all the creation of the necesssary climate for negotiations and that there was accordingly an urgent need for the South African Government to take certain measures, listed in paragraph 6, which were essential to ensure that the people themselves participated in the process of negotiating the dismantling of apartheid. Secondly, in paragraph 8 the Assembly indicated the guidelines to the process of negotiations, based on respect for the principles of the Charter of the United Nations and the granting to all South African citizens of the rights set forth in the Universal Declaration of Human Rights, making South Africa a non-racial, free and democratic State. Finally, the third part of the body of the Declaration dealt with a programme of action which States Members should implement and the measures they should take to attain the objectives set forth in the Declaration. Under the Declaration, the States Members decided in particular that, once the new constitution was adopted, South Africa could resume its place in the international community and in Africa itself, where, with its industrial potential, it could represent a development pole in the southern part of the African continent.

69. Regarding Namibia, his delegation welcomed the fact that it had finally been possible to hold elections there with the co-operation of the Pretoria régime and thanks to the assistance supplied by the United Nations through UNTAG and to international co-operation. It was to be hoped that Namibia would soon accede to independence in accordance with the process laid down in Security Council resolution 435 (1978). In that connection his delegation approved the recommendations made by the Ad Hoc Working Group of Experts in

its report (E/CN.4/1990/7) concerning the provision of assistance to the future Namibian Government and in particular of the advisory services it might need to meet its obligations under international human rights instruments and to strengthen the democratic institutions responsible for ensuring the promotion and protection of human rights. His delegation also approved the idea of holding training seminars for staff dealing with human rights questions in Namibia, in particular an information seminar on human rights in post-colonial Namibia. Finally, the proposal to conduct a census of persons who had been the victims of human rights violations during the illegal occupation of Namibia, so as to assess the damage with a view to equitable compensation, appeared sound.

70. When Namibia was free and independent and apartheid dismantled in South Africa, a new era of peace, bringing hope for development, would begin in southern Africa.

71. Mrs. Regazzoli (Argentina) took the Chair.

72. Mr. PAGAK (Observer for Czechoslovakia) said that Czechoslovakia's action in the area of human rights was governed by the principles of justice and equality, and that only the complete elimination of all forms of discrimination, in particular racism and apartheid, which were moreover a threat to international peace and security, would enable all individuals, groups and nations to enjoy the fundamental freedoms and rights set forth in the Charter of the United Nations.

73. Czechoslovakia participated actively in the defence of human rights, both internally, by adopting legislative, administrative, judicial and other measures, and internationally by ratifying the principal instruments concerning the struggle against racism, racial discrimination and apartheid.

74. Despite the painstaking efforts of the international community and the United Nations, which had on a number of occasions been successful, as in Namibia, the situation was far from satisfactory, firstly because the apartheid system was still in force in South Africa, even if recent developments gave hope for its gradual elimination, and secondly because new forms of racism were at present emerging. In order for the principle of human dignity to triumph, international co-operation within the United Nations must be strengthened, and Czechoslovakia was always ready to take an active part in such co-operation.

75. Mrs. DATE-BAH (International Labour Organisation) said that in 1989 ILO had taken an important measure to combat apartheid by setting up a group of three independent experts to monitor sanctions and other actions against apartheid throughout the world as specified in the ILO updated Declaration concerning Action against Apartheid in South Africa and Namibia and its annexed Programme of Action.

76. At its first meeting, in October 1989, the group, whose mandate and activities were described in document E/CN.4/1990/37, had decided to give priority to studies relating to an embargo on South African coal, effective financial sanctions and issues concerning the effective severence of air links with South Africa.

77. In June 1989, the ILO Conference Committee on Action Against Apartheid had urged greater action by ILO's tripartite members and the ILO itself against the apartheid régime and on behalf of its victims.

78. Other ILO activities in 1989 had included technical assistance to the victims of apartheid, preparation of another issue of the Special Report of the Director-General on the Application of the Declaration concerning Action against Apartheid in South Africa and Namibia, and dissemination of information on the labour and social situations in South Africa and Namibia.

79. At the request of the Conference Committee on Action Against Apartheid, ILO had sent a multidisciplinary mission to Namibia in 1989 to identify needs during the transitional period and after independence.

80. ILO had also elaborated several project proposals for southern Africa in areas such as job creation, employment planning, rural development, vocational training, vocational rehabilitation of the disabled, workers' education and assistance to vulnerable groups.

81. ILO would continue to assist those seeking the restoration of freedom to all the inhabitants of South Africa, and it hoped that the measures recently announced by the South African Government would contribute to that process.

82. Mr. ROA KOURY (Cuba), speaking in exercise of the right of reply, repudiated the allegations of the Minister of Foreign Affairs of Austria, Mr. Mock, to the effect that human rights were being violated in Cuba. Mr. Mock was using a double standard, for he had made no reference whatsoever to the most serious blow that had been struck in recent months against the right to life and self-determination, namely the invasion of Panama by the United States of America. He wished to remind Mr. Mock that if Cuba was among the few countries that had received a mission entrusted with a detailed investigation of the human rights situation on behalf of the Commission, it was precisely because Cuba had nothing to hide or to fear.

The meeting rose at 6 p.m.